UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,695	08/02/2002	Niels Rump	SCHO0113	3855

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EXAMINER
HENNING, MATTHEW T

ART UNIT	PAPER NUMBER
2431	

NOTIFICATION DATE	DELIVERY MODE
10/28/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eptomatters@glenn-law.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6,9-11,13,16 and 17* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6,9-11,13,16 and 17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 June 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☒ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1   This action is in response to the communication filed on 7/17/2009.

2   **DETAILED ACTION**

3   ***Response to Arguments***

4   Applicant's arguments filed 7/17/2009 have been fully considered but they are not

5   persuasive.

6   Regarding the applicants' argument that Downs did not teach processing of a certain

7   portion of the header concurrent with playing back the unencrypted start section, the examiner

8   does not find the argument persuasive. In response to applicant's arguments against the

9   references individually, one cannot show nonobviousness by attacking references individually

10   where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

11   208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

12   1986). In this case, it is the combination of Saito, Peterson, and Downs that renders the claim,

13   and specifically this limitation obvious. Saito and Peterson together teach that the beginning of

14   the user data should be kept unencrypted and is to be used as sample data, which can be played

15   back freely by the user. Saito and Peterson also teach that the remaining data is stored in

16   encrypted form, and once authorized the data may be decrypted for playback. Downs teaches

17   that while playing back unencrypted data, the decrypted portions of data may be decrypted in

18   order to allow them to be played back with no delay. The ordinary person skilled in the art,

19   when considering these teachings, would conclude that while the beginning sample data is being

20   played back, the remaining encrypted data can be decrypted for play back as well. The ordinary

21   person skilled in the art would also realize that the portion of the header data needed to recognize

22   the encrypted data would be processed during the decryption process, and as such would be

1   processed during the playback of the unencrypted sample data. As such, the ordinary person

2   skilled in the art would have found the claim limitations obvious in light of the Saito, Peterson,

3   and Downs teachings. Therefore, the examiner does not find the argument persuasive.

4   All objections and rejections not set forth below have been withdrawn.

5   Claims 6, 9-11, 13, 16, and 17 have been examined.

6

7   ***Claim Rejections - 35 USC § 112***

8   The following is a quotation of the second paragraph of 35 U.S.C. 112:

9   The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
10   subject matter which the applicant regards as his invention.
11
12   Claims 11 and 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

13   failing to particularly point out and distinctly claim the subject matter which applicant regards as

14   the invention. In this case, the claims depend from claims which have been cancelled.

15   Therefore, the ordinary person skilled in the art would be unable to determine the scope of the

16   claims. As such, the claims are rejected for failing to particularly point out and distinctly claim

17   the subject matter which the applicants regard as the invention.

18
19   ***Claim Rejections - 35 USC § 103***

20   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

21   obviousness rejections set forth in this Office action:

22   *A patent may not be obtained though the invention is not identically disclosed or*
23   *described as set forth in section 102 of this title, if the differences between the subject matter*
24   *sought to be patented and the prior art are such that the subject matter as a whole would have*
25   *been obvious at the time the invention was made to a person having ordinary skill in the art to*
26   *which said subject matter pertains. Patentability shall not be negatived by the manner in which*
27   *the invention was made.*
28

1   Claims 6, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito

2   (US Patent Number 6,744,894), and further in view of Peterson, Jr. (US Patent Number

3   5,825,876) hereinafter referred to as Peterson, and further in view of Downs et al. (US Patent

4   Number 6,226,618).

5   Regarding claim 6, Saito disclosed a method for playing back an encrypted user data

6   stream, which has a header and a user data block (See Saito Fig. 4G), where an unencrypted start

7   section of the user data block comprises a first part of the user data in an unencrypted form (See

8   Saito Fig. 4G and Col. 8 Paragraphs 6-10) and where a further section of the user data block

9   comprises a second part of the user data in an encrypted form (See Saito Fig. 4G), and appending

10   the encrypted user data to the unencrypted start section (See Saito Fig. 4G), where the header

11   comprises information which is absolutely necessary for playing back the unencrypted start

12   section of the user data block and where the header also comprises information which is not

13   needed to play back the unencrypted start section of the user data block (See Saito Fig. 4G and

14   Col. 8), processing the information of the header which is not needed to play back the

15   unencrypted start section (See Saito Col. 8 Paragraphs 2-10); and decrypting the further section

16   of the user data block using the information of the header which is processed in the step of

17   processing (See Saito Col. 8 Paragraphs 2-10); but Saito failed to disclose using the first part of

18   the user data as the unencrypted start section; for playback, initially processing only the

19   information of the header which is absolutely necessary for playing back the unencrypted start

20   section of the user data block; and playing back the unencrypted start section of the user data

21   block, or that the step of processing the information of the header which is not needed to play

1   back the unencrypted start section is performed concurrently with the playing back of the

2   unencrypted start section.

3   Peterson teaches providing non-secured content data along with the secured content data,

4   the non-secured content data constituting a free sampling of the secured data, as it may be readily

5   accessed, without authorization, by a potential consumer and is provided as a means for enticing

6   the consumer to pay for access to the secured data content (See Peterson Col. 5 Lines 30-39).

7   Peterson further teaches that the non-secure data is the first part of the content data and that it

8   immediately follows the header data (See Peterson Fig. 3). Peterson further teaches initially

9   processing only the information of the header which is absolutely necessary for playing back the

10 sample data (Peterson Col. 7 Line 56 – Col. 8 Line 12).

11   It would have been obvious to the ordinary person skilled in the art at the time of

12 invention to have employed the teachings of Peterson in the content system of Saito by providing

13 non-secured sampling data immediately following the header data and before the secured data

14 and by initially processing only the header data necessary to play back the sampling data. This

15 would have been obvious because the ordinary person skilled in the art would have been

16 motivated to provide a means for enticing the consumer to pay for access to the secured content.

17   Downs teaches that concurrently decrypting the data while playing back unencrypted data

18 makes the decryption more efficient since the entire file does not need to be decrypted prior to

19 beginning playback (See Downs Col. 82 Paragraph 6).

20   It would have been obvious to the ordinary person skilled in the art at the time of

21 invention to employ the teachings of Downs in the decryption system of Saito and Peterson by

1   concurrently playing and decrypting. This would have been obvious because the ordinary person

2   skilled in the art would have been motivated to increase the efficiency of the decryption system.

3   In this combination, it would have been obvious to the ordinary person skilled in the art

4   at the time of invention that while the initial sample data is being played back, the first portion of

5   encrypted data would be decrypted, as taught by Downs, in order to allow the content playback

6   to be streamed from the file.

7   Regarding claim 13, Saito, Peterson, and Downs disclosed a method for playing back an

8   encrypted multimedia data stream, which has a header and a user data block, where an

9   unencrypted start section of the user data block, which is placed immediately after the header,

10   comprises the first part of the user data in an unencrypted form and where a further section of the

11   user data block comprises a second part of the user data in an encrypted form, where the header

12   comprises information which is absolutely necessary for playing back the unencrypted start

13   section of the user data block and where the header also comprises information which is not

14   needed to play back the unencrypted start section of the user data block (See Saito Fig. 4G and

15   Col. 8), comprising the following steps: initially processing the information of the header which

16   is absolutely necessary for playing back the unencrypted start section of the user data block (See

17   Saito Col. 8 Paragraph 2), processing the information of the header which is not needed to play

18   back the unencrypted start section (See Saito Col. 8 Paragraph 2 and Peterson Col. 7 Line 56 –

19   Col. 8 Line 12); and decrypting the further section of the user data block using the information of

20   the header which is processed by the unit for processing (See Saito Col. 8 Paragraphs 2-10);

21   wherein the processing the information of the header which is not needed to play back the

22   unencrypted start section is designed to be operated concurrently to the playing back the

1   unencrypted start section (See Downs Col. 82 Paragraph 6 and the rejection of claim 6 above);

2   but failed to disclose specifically playing back the data. However, it is implied that the data was

3   meant to be played back since Saito disclosed that the data was video data (See Saito Col. 8

4   Paragraph 2), and it was further obvious that playback would have been in response to

5   processing the header data (used to allow the content to be recognized, as seen in Saito Col. 8).

6   Saito further did not specifically disclose a unit which only processes the header. However, it

7   was well known in the art that modularization of a system improved the flexibility and

8   comprehensibility of the system, and as such it would have been obvious to have broken the

9   system in to different modules, and as header processors were also well know in the art it would

10   have been obvious to have used a dedicated header processor in the system of Saito.

11   Regarding claim 10, Saito, Peterson, and Downs disclosed that the data was encoded (See

12   Saito Col. 2 Paragraph 2) and it therefore would have been obvious that the type of coding was

13   indicated in the header data in order to recognize the data.

14   Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito,

15   Peterson, and Downs as applied to claims 6 and 13 above, and further in view of Rump et al. (DE

16   196 25 635 C1).

17   While Saito, Peterson, and Downs generically taught having unencrypted sample data,

18   Saito and Peterson did not teach a length for the sample data, specifically that the length of the

19   unencrypted start section of the user data block is between 1 and 60 seconds.

20   Rump, on the other hand, teaches specifically that the first 20 seconds of an audio track

21   can be used as sample data (Rump Col. 2 Last Paragraph to Col. 3 First paragraph).

1   It would have been obvious to the ordinary person skilled in the art at the time of

2   invention to have employed the teachings of Rump in the content system of Saito, Peterson, and

3   Downs by having the sample data be the first 20 seconds of an audio track. This would have

4   been obvious because the ordinary person skilled in the art would have been motivated to

5   provide a specific sample size to the generic sample data of Saito and Peterson.

6

7   ***Conclusion***

8   Claims 6, 9-11, 13, 16, and 17 have been rejected.

9   The prior art made of record and not relied upon is considered pertinent to applicant's

10   disclosure.

11   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

12   policy as set forth in 37 CFR 1.136(a).

13   A shortened statutory period for reply to this final action is set to expire THREE

14   MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

15   MONTHS of the mailing date of this final action and the advisory action is not mailed until after

16   the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

17   will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

18   CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

19   however, will the statutory period for reply expire later than SIX MONTHS from the mailing

20   date of this final action.

1   Any inquiry concerning this communication or earlier communications from the

2   examiner should be directed to MATTHEW T. HENNING whose telephone number is

3   (571)272-3790. The examiner can normally be reached on M-F 8-4.

4   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

5   supervisor, William Korzuch can be reached on (571)272-7589. The fax phone number for the

6   organization where this application or proceeding is assigned is 571-273-8300.

7   Information regarding the status of an application may be obtained from the Patent

8   Application Information Retrieval (PAIR) system. Status information for published applications

9   may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

10   applications is available through Private PAIR only. For more information about the PAIR

11   system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

12   system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

13   like assistance from a USPTO Customer Service Representative or access to the automated

14   information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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16
17   /Matthew T Henning/
18   Examiner, Art Unit 2431
19
20
21   /William R. Korzuch/
22   Supervisory Patent Examiner, Art Unit 2431
23